IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE V.ESWARAIAH

Writ Petition No.24371 and 24372 of 2007

W.P.No.24371 of 2007

BETWEEN
Chidadala Penchalaiah and others

.. Petitioner

And

The Joint Collector,
Nellore District and another.

.. Respondents

DATED 15-11-2007

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Writ Petition No.24371 and 24372 of 2007

ORDER:

These two writ petitions are disposed of by this common order as similar contentions have been raised involving common questions of law.

The father of the petitioners in W.P.No.24371 of 2007 has purchased an extent of Ac.8.87 cents of land in survey Nos.629/1, 628/2 and 628/3. The petitioner in W.P.No.24372 of 2007 has purchased an extent of Ac.10.30 cents of land in survey No.626/3, 629/4, 626/5, 629/6, 630/1 and 652/2. All the said lands are situated in Marupuru Village, Podalakuru Mandal, Nellore District. It is stated that the said lands were originally assigned in favour of

C.Muthyalaiah and Vadde Drowpadamma. respectively and the petitioners have purchased the said lands from them in contravention of the provisions of sub-section (2) of Section 3 of the A.P. Assigned Land (Prohibition of Transfer) Act, 1977 (for short 'the Act') and, therefore, the Mandal Revenue Officer, Podalakur passed resumption orders under Section 4(1)(a) of the said Act resuming the said lands. As against the said orders, the appeals filed by the petitioners have been dismissed. Thereafter, it is stated that the petitioners made representations on 8.11.2007 seeking assignment of the said lands in their favour stating that they are land less poor persons and, therefore, they are entitled for the assignment of the said lands.

Under Section 3 of the Act, the assigned lands are prohibited to be transferred or made use of for any purpose other than the purpose for which the lands have been assigned. Any such transfer or alienation made in contravention of sub-section (1) or sub-Section (2) of Section 3 are deemed to be null and void. The contention of the petitioners that they are the landless poor and, therefore, the resumption orders are unsustainable has been negatived on the ground that under sub-Section (5) of Section 3 of the Act, if any landless poor purchased the assigned lands prior to the commencement of the Act, he is entitled to have the benefit of sub-Section (5) of Section 3 of the Act. However, he is not entitled for the said benefit in respect of the assigned lands purchased after the commencement of the Act. Under Section 4(1)(b) of the Act, after passing the resumption orders under Section 4(1) of the Act, the consequences that shall follow are that the original assignees or their legal heirs are entitled for restoration of the lands and if it is not reasonable or practicable to restore the resumed land, it is for the Government to assign the same to landless poor in accordance with rules. Therefore, it is for the Government to consider either to

restore the said resumed lands in favour of the original assignee or their legal heirs or to assign the same to the landless poor. When the ceiling surplus lands or the government lands are sought to be assigned in favour of the landless poor, the poorest of the poor are entitled for preferential consideration. Therefore, it is for the government to consider all the claims of the poorest of the poor in the order of preference taking into consideration their poverty alone but no individual has got any vested right to claim assignment. When the lands are sought to be assigned, it is just and proper for the Government to take into consideration the relevant factors like poverty of various persons residing in the village or the area etc.,

For the foregoing reasons, since the representations of the petitioners for assignment are pending, without expressing any opinion on the right of the petitioners for being assigned the lands, the writ petitions are disposed of directing the second respondent to consider and dispose of the said representations while taking into consideration the claims of the poorest of the poor in the said village.

V.ESWARAIAH,J

Dt.19.11.2007

msv